


2025
SURVEYORS'
Conference

706: The Practical and Legal Aspects of Property Access (Right of Entry) for Surveyors in Pennsylvania

Donald G. Groesser, PLS
Alan K. Sable, Esq.

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Introduction – Don Groesser

- Vice President and Corporate Survey / Geospatial Practice Lead for Civil & Environmental Consultants, Inc. (CEC), since 2014.
- Provides corporate support and guidance for Surveying and Geospatial Services in 22 of CEC's 29 offices, including 186 Survey / Geospatial staff members with 40 Professional Land Surveyors licensed in 31 states.
- Surveying for 39 years, Licensed in seven states (PA, IL, WI, KY, NY, AZ, FL)
- Past President of the IPLSA, Vice President of the PSLs and Chair of the SOP Committee 2020-2022. Chair of Geospatial Committee and Education Committee.
- 2022 PSLs Surveyor of the Year!
- Very happily married for 36 years, and have 12 kids and 1 granddaughter ...

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Introduction – Alan Sable

- Partner in the Real Estate & Lending practice group of Meyer, Unkovic & Scott, LLP.
- Licensed title insurance agent who operated a commercial title insurance agency affiliated with his prior law firm
- Previously, a founding member of Sable and Sable, LLC, and a partner in the Pittsburgh office of Reed Smith LLP
- Over 31 years of experience offering legal advice in all areas of commercial real estate law
- Education: J.D., Penn State Dickinson Law, 1992 - B.A., Colgate University, 1989
- Served as an expert witness on real estate title issues in federal and state court litigation matters
- Resides in Pine Township with his wife, their miniature dachshund, and his father-in-law, and sometimes their 2 children

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DISCLAIMER

This presentation is for informational purposes only and does not constitute legal advice. Always consult the applicable laws and regulations or seek legal counsel for specific situations.

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Importance of Right of Entry

- Essential for Accurate Surveys
 - Land surveyors often need to enter private lands (or cross them) to take measurements, locate boundaries, and gather data.
 - Right-of-entry laws help ensure surveyors can do their jobs without unintended legal repercussions.
- Balancing Rights and Responsibilities
 - Property owners' rights must be respected.
 - Surveyors bear the responsibility of minimizing disruption and clearly communicating their intentions.

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Trespass Law Basics

- Definition of Trespass
 - Trespass typically involves entering or remaining on land owned by another without permission.
 - In general, state statutes or common law principles govern what constitutes trespass.
- Exceptions to Trespass for Surveyors
 - Some states explicitly provide a “right of entry” or “exemption from trespass” for licensed surveyors who follow certain procedures (e.g., notifications, identification).
 - Key aim is to balance property owners' interests with the public interest in accurate land surveying.

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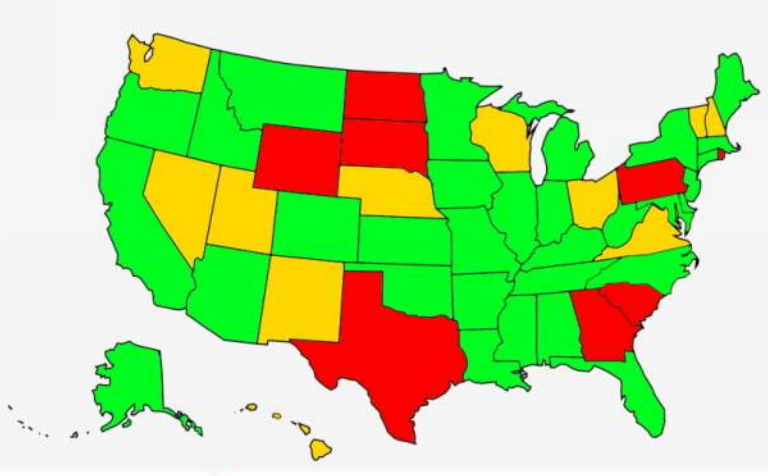
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Right of Entry in the U.S.

- 31 States
- surveyors
- An addition
- trespass
- 8 have no



■ = RIGHT OF ENTRY OR NO LIABILITY OF TRESPASS


■ = RIGHT OF ENTRY IN CERTAIN CIRCUMSTANCES

■ = NO RIGHT OF ENTRY PROVISION

or


to

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Right of Entry in the U.S.




- 31 States have right-of-entry or trespass exemptions for surveyors
- An additional 11 states provide right-of-entry or exemption to trespass in certain circumstances
- 8 States do not have any provisions (including PA).

■ = RIGHT OF ENTRY OR NO LIABILITY OF TRESPASS

■ = RIGHT OF ENTRY IN CERTAIN CIRCUMSTANCES

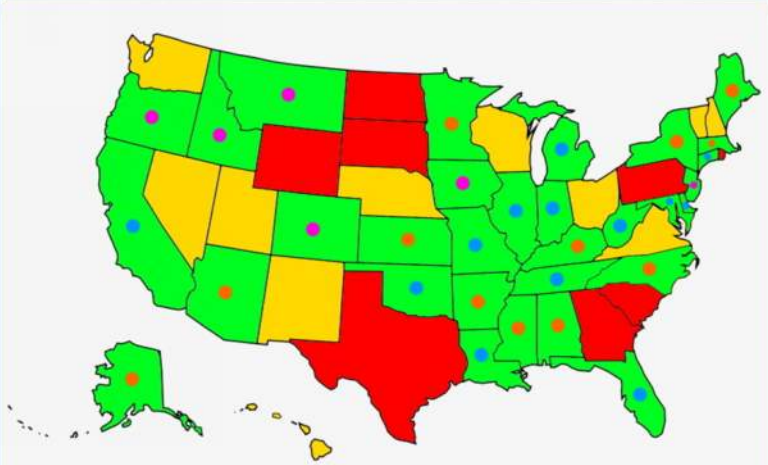
■ = NO RIGHT OF ENTRY PROVISION

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Right of Entry in the U.S.



■ = RIGHT OF ENTRY OR NO LIABILITY OF TRESPASS	● = NO NOTIFICATION REQUIRED
■ = RIGHT OF ENTRY IN CERTAIN CIRCUMSTANCES	● = REASONABLE EFFORT OR WHEN PRACTICAL
■ = NO RIGHT OF ENTRY PROVISION	● = NOTIFICATION BY FIRST-CLASS OR CERTIFIED MAIL

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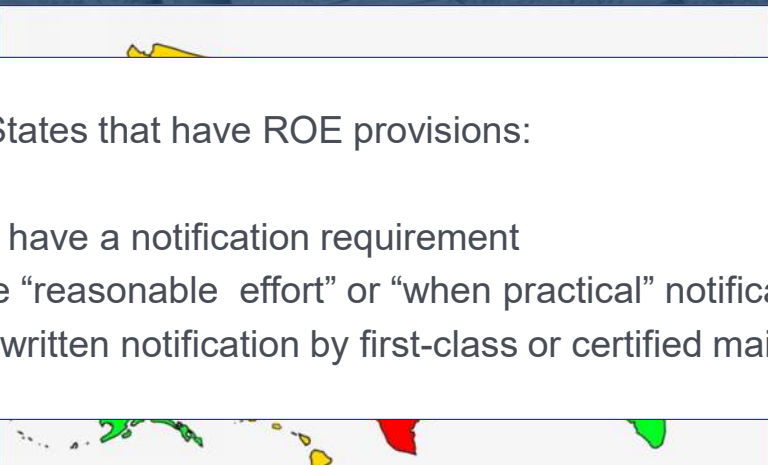


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Right of Entry in the U.S.


Of the 31 States that have ROE provisions:

- 13 do not have a notification requirement
- 12 require “reasonable effort” or “when practical” notification
- 6 require written notification by first-class or certified mail.



■ = RIGHT OF ENTRY OR NO LIABILITY OF TRESPASS	● = NO NOTIFICATION REQUIRED
■ = RIGHT OF ENTRY IN CERTAIN CIRCUMSTANCES	● = REASONABLE EFFORT OR WHEN PRACTICAL
■ = NO RIGHT OF ENTRY PROVISION	● = NOTIFICATION BY FIRST-CLASS OR CERTIFIED MAIL

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Right of Entry in PA

- There is currently no provision in PA for surveyor's right-of-entry or exemption to trespass
- What are some of the legal ramifications for trespass in PA?

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases
 - Because there is NO statutory right of entry for surveyors in Pennsylvania, look to common law (i.e. court decisions) to determine rights and liability.
 - Two (2) types of liability – civil and criminal

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Right of Entry in PA


- Legal ramifications for trespass in PA / Court cases

Civil liability is the obligation of an individual or entity to another for damage or harm caused by that individual or entity.

Criminal liability is the obligation of an individual or entity to the state for the violation of a statutorily defined crime.

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases


In Pennsylvania, an individual can be liable civilly for trespass.

Trespass is the intentional act of entering onto the land of another, without privilege to do so.

It does not matter if the trespassing party causes harm or damage to the property or a legally protected interest of another party.

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases
 - Trespass includes:
 1. Entering onto land in the possession of another, or causing a thing or third person to do so, OR
 2. Remaining on land in the possession of another, OR
 3. Failing to remove from the land something that the trespasser has a duty to remove.

Trespass also includes failing or refusing to leave another's land after being asked or told to do so.

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases
 - A privilege is a right given to the person to enter the land.
 - Privilege can be express or implied.
 - Privilege can be granted by law or statute, such as a right of entry statute.
 - BUT** a trespass can occur even if by mistake:
 - (a) The trespasser honestly but mistakenly believes that he has a right or privilege to be on the land, OR
 - (b) The trespasser mistakenly enters the land without realizing that he is entered the land.

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases
 - What liability can a surveyor have if he trespasses?
 - If the surveyor damages the property, the surveyor can (and likely will) be liable for the cost to repair the damage.
 - BUT if the surveyor does not damage anything, then a court is not likely to award money damages.
 - Unable to find any reported court opinions addressing liability of surveyor for trespass.

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases
 - Criminal Trespass Statute is 18 Pa.C.S. §3503.
 - Several different trespass crimes include:
 - a. Criminal trespass involves buildings or occupied structures, OR separately secured or occupied portions thereof.
 - b. **Defiant trespass** involves entering or remaining in any place (such as land).
 - c. Agricultural trespass involves posted agricultural or other open lands.
 - d. Agricultural biosecurity area trespass involves agricultural biosecurity areas.

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Right of Entry in PA

- Legal ramifications for trespass in PA / Court cases
 - Defiant trespass** is the crime most applicable to surveyors.
 - Defiant trespass is when a person, knowing he is not privileged to do so, enters or remains in any place as to which notice against trespass is given by, among other things:
 1. Actual communication;
 2. Posting;
 3. Fencing or other enclosure designed to exclude intruders; OR
 4. In counties other than Allegheny and Philadelphia, purple paint marks.
 - Defiant trespass** is a summary offense UNLESS the offender is personally told to leave and does not. Then it is a third degree misdemeanor.

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2013 Senate Bill No. 166

- There was an attempt in 2013 to provide right-of-entry provisions

PRINTER'S NO. 116

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **166** Session of
2013

INTRODUCED BY ALLOWAY, SOLOBAY, TARTAGLIONE, SCHWANK AND
EICHELBERGER, JANUARY 15, 2013


REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JANUARY 15, 2013

AN ACT

1 Providing for a surveyor's right to enter the land of another to
2 perform surveying services.

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2013 Senate Bill No. 166

Section 3. Right to enter land of another.

- (a) Right of entry.--If necessary to perform surveying services, a surveyor may enter upon the land of another and use customary equipment and vehicles.
- (b) Identification.--A surveyor shall carry a form of identification that indicates the surveyor's registration or place of employment. Upon entering the land of another, the surveyor shall display the identification to any individual requesting to view it.
- (c) Notification.--Prior to conducting a survey, a surveyor shall make a good faith effort to notify a landowner whose land it is necessary to enter under subsection (a).

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2013 Senate Bill No. 166


- (d) Prohibition.--A surveyor may not enter any of the following:
 - (1) Land owned by a railroad company located within 50 feet of a railroad track without first obtaining written permission from the railroad company, unless the railroad company grants permission to the surveyor, but does not provide the surveyor with the written permission form within a reasonable amount of time.
 - (2) A place used for residence or storage.
- (e) Duty of care.--Nothing in this section may be construed as permitting a surveyor to damage the land of another or provide immunity from civil liability for the damage.

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New Proposed PA Provision




Pennsylvania Society of Land Surveyors

Right-of-Entry This legislation will be introduced by PSLS in the 2025-2026 Legislative Session to grant surveyors and their subordinates the limited right-of-entry to the lands of others which are necessary to perform their work. This legislation will be similar to the West Virginia Law which states NO notification is required with the following modifications: (E) Entry where no physical damage is done to property (1) in the performance of surveying to ascertain property boundaries and (2) in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner's property. Currently, 29 states allow for Right-of-Entry.

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New Proposed PA Provision

- Proposed PA legislation would revise trespass law to follow the WV precedence:
- (8) "Trespass" under this article is the willful unauthorized entry upon, in or under the property of another, but shall not include the following:
 - (E) Entry where no physical damage is done to property (1) in the performance of surveying to ascertain property boundaries, and (2) in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner's property.

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Adjoining State Provisions

New Jersey - N.J. Stat. § 45:8-44.1 (Jan. 12, 1984)

- Authority of land surveyors to go on, over and upon lands of others during reasonable hours
- reasonable attempt ...to notify the owner of the land
- The land ... is not enclosed by a ... barrier which is at least 6 feet in height or is not posted with signs or notices which prohibit trespassing ...
- "reasonable attempt" ... means: ... by certified mail, return receipt requested ... (three attempts)

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Adjoining State Provisions

New York - N.Y. Consolidated Laws GOB § 9-105 (2005)

- ... land surveyor may enter upon or cross any lands necessary
 - ... reasonable effort to notify the landowner ...
 - ... during reasonable hours ...
 - ... reasonable distance from the property line ...
 - ... carries proper identification ...
- Nothing in this section shall be construed to
 - ... remove civil liability for damage
 - ... enter any building used as a residence or for storage

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Adjoining State Provisions

Maryland - M.D. Code NR § 2-403 (May 9, 2024)

- “The Survey may enter on any public or private property to examine any boundary monument. However, the Survey may not enter during the growing season on any land planted with crops which might be damaged by any entry.”

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Adjoining State Provisions

Ohio – No general provision for right-of-entry

- Section 159.11 - Allows U.S. surveyors to enter land to conduct surveys, establish permanent stations, and erect temporary observatories
- Section 163.03 - Allows agencies to enter land to conduct surveys, soundings, and other activities, as long as they provide notice to the owner or person in possession
- Section 1504.03 - Allows the chief of the office of real estate and land management to enter land to conduct surveys and inspections, as long as they provide notice to the owner or person in possession
- Section 4933.15 - Allows companies that transmit or distribute electricity to enter land to conduct preliminary examinations and surveys, as long as the land is not owned by another corporation with the power of eminent domain

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Adjoining State Provisions

West Virginia – W.V. Code § 61-3B-1 (August 18, 2009)

- (8) “Trespass” under this article is the willful unauthorized entry upon, in or under the property of another, **but shall not include the following:**
- (E) Entry where no physical damage is done to property in the performance of surveying to ascertain property boundaries, and in the performance of necessary work of construction, maintenance and repair of a common property line fence, or buildings or appurtenances which are immediately adjacent to the property line and maintenance of which necessitates entry upon the adjoining owner’s property.

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Best Practice for Property Access

- Not all property is “equal”
 - Railroads, Restricted Access Highways, Schools, Airports, other Federal Property usually require written access permits, and often security clearances.
- The FAA has specific requirements regarding permissions for UAV (drone) use.
 - Can’t fly over property without approval of the owner/occupant
 - Can’t fly over people without their knowledge and consent
 - Can’t fly over traffic

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Best Practice for Property Access

- Pre-Entry Communication
 - Mail letters to property owners or occupants, explaining:
 - The nature of the survey
 - The approximate time window for field work
 - Contact information for follow-up or concerns
- Proper Identification
 - Field crews should carry:
 - Professional licenses or company ID
 - Notice on official letterhead if possible

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Best Practice for Property Access

- Minimize Disruption
 - Stay on designated pathways where possible
 - Avoid damaging crops, landscaping, or fencing
 - Promptly restore any disturbed property markers
- Documentation & Record-Keeping
 - Log the date, time, and nature of each site visit
 - Keep copies of all correspondence with landowners
 - If an owner denies access, document the refusal and seek alternative arrangements or legal advice

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Safety Considerations for Field Staff

To reduce liability when accessing property, crews must work safely

- Personal Protective Equipment (PPE)
 - High-visibility vests, hard hats (where required), safety glasses, and sturdy footwear
 - Weather-appropriate clothing to prevent slips, trips, and falls
- Traffic & Roadside Safety
 - Use reflective cones, warning signage, and safety flags when working near roads
 - Follow applicable state Department of Transportation guidelines for roadside work

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Safety Considerations for Field Staff

- Environmental Hazards
 - Evaluate terrain for steep slopes, unstable ground, or water hazards
 - Watch for wildlife (e.g., ticks, snakes) and take proper precautions (e.g., insect repellent, boots)
 - Do not attempt to climb over barriers or fences that are intended to prevent human access
- Communication & Emergency Protocols
 - Ensure field crews have reliable means of communication (radios, cell phones)
 - Have a clear emergency response plan and first aid kit on-site
 - If working alone, establish a check-in schedule with office staff

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Safety Considerations for Field Staff

- Other considerations:
 - Under no circumstances should crews cut locks or cut through fences
 - Carrying a firearm may increase liability for trespass violations
 - Explicit permission is required if “no trespassing” is posted
- Conflict De-Escalation
 - Be prepared for encounters with concerned or disgruntled property owners
 - Maintain a calm, professional demeanor; clearly explain your reason for being on the property
 - If conflict persists, politely depart and notify the project manager or attorney as needed

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Frequently Asked Questions

Q: What if a property owner still refuses entry despite notice?
A: Document the refusal, notify your client and/or legal counsel, and consider whether a court order is necessary.

Q: How can we reduce confrontation risks on-site?
A: Communicate in advance, carry proper identification, maintain a polite and professional demeanor, and leave if a situation becomes hostile.

Q: Are there different rules for government projects vs. private projects?
A: Yes. Eminent domain or public utilities may have clearer statutory authority to access land. For private projects, surveyors often rely on owner consent or relevant state right-of-entry statutes.

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 **CONTACT INFORMATION**

 **Donald G. Groesser, PLS**

- Direct: 412.249.2338
- Mobile: 412.315.8333
- Email: dgroesser@cecinc.com

 **Alan K. Sable, Esq**

Mobile: 412.456.2802
Email: aks@muslaw.com

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 **QUESTIONS?**



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SESSION EVALUATION

706: The Practical and Legal Aspects of Property Access (Right of Entry) for Surveyors in Pennsylvania



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[HTTPS://WWW.SURVEYMONKEY.COM/R/2025PSLSEVAL](https://www.surveymonkey.com/r/2025PSLSEVAL)